

REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion is respectfully requested.

Claims 24, 26-33, 44 and 46-53 are pending in this case. Claims 25, 34-43 and 45 are canceled; and Claims 24, 26, 28-32, 44, 46, 48, 49 and 50 are amended by the present amendment. Claims 24 and 44 are amended to incorporate the subject matter of canceled dependent Claims 26 and 46, respectively. The claims are also amended to correct minor informalities and to no longer depend from canceled Claims 25 and 45. No new matter is presented.

In the outstanding Official Action, Claims 24 and 44 were objected to because of minor informalities; Claims 37-53 were rejected under 35 U.S.C. §112, second paragraph, as indefinite; and Claims 24-33 and 37-53 were rejected under 35 U.S.C. §103(a) as unpatentable over Picco et al. (U.S. Patent No. 6,029,045, hereinafter "Picco") in view of Hendricks et al. (U.S. Patent No. 6,463,585 B1, hereinafter, "Hendricks").

In response to the objection to Claims 24 and 44, these claims are amended to recite "terminal ID information" instead of "the terminal ID information," as recommended in the outstanding Official Action.

Accordingly, Applicant respectfully requests that the objection to Claims 24 and 44 be withdrawn.

Claims 37-53 were rejected under 35 U.S.C. §112, second paragraph, as indefinite. In response to the rejection to Claim 44, this claim is amended to recite "transmitting, from a transmission server section...", thus, the subsequent recitation of "said transmission server section" has sufficient antecedent basis. Regarding Claim 49, this claim is amended to recite "auxiliary materials" instead of "assisting materials," as recommended in the outstanding Official Action.

Accordingly, Applicant respectfully requests that the rejection of Claims 44 and 49 under 35 U.S.C. §112, second paragraph, be withdrawn. As Claims 37-39 are canceled the rejection to these claims is rendered moot.

In response to the rejection based on Picco and Hendricks, Applicants respectfully submits that amended independent Claims 24 and 44 recite novel features clearly not taught or rendered obvious by the applied references.

Amended independent Claim 24 relates to an information providing system which provides a continuous stream of multimedia contents to a user. The system includes a server section which transmits the continuous stream of multimedia contents including prearranged combinations of program main body data prepared with sorting information annexed thereto and groups of auxiliary materials. The terminal then receives the information sent from the server section and stored and processes it appropriately. A processing server then detects any change to be made in the auxiliary materials and issues an instruction for the change to be made to the related terminal section.

Independent Claim 24 is amended to incorporate the feature of canceled Claim 25 and also recites

...wherein said terminal sections are configured to receive the instruction for the change to be made to the auxiliary materials from said processing server section and ***send, to the processing server section, the conditions for the instruction for the change and an acknowledgment or refusal of the change on the basis of the relationship between the attributes and the profile of the contents clips.***

Turning to the applied primary reference, Picco describes a system and method for inserting local content into “live” programming content. Specifically, Picco describes that “live” programming data and local content are transmitted to a set-top box, which stores predetermined portions of the local content data based on predetermined criteria and inserts

the local content at an identified local content space in the programming data stream.<sup>1</sup> Picco further describes that the set-top box may select a particular piece of local content to insert based on based on user preferences to provide individualized local content.<sup>2</sup>

As admitted at p. 5 of the outstanding Official Action, however, Picco fails to teach or suggest “sending back the conditions for the instruction for the change and an acknowledgement or refusal of the change.” In addressing this feature, the Official Action states that “Official Notice is taken that that it is well known in the art that a device may generate an acknowledgement or failure message and the conditions thereof in response to an instruction.”

If official notice is being taken, Applicants respectfully submit that official notice alone is not permissible as grounds for rejection in the outstanding Official Action. As stated in the MPEP at § 2144.03(A):

It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. *In re Ahlert*, 424 F.2d at 1091, 165 USPQ at 420-21.

With regard to the above, Applicants respectfully submit that the features advantageously recited in amended independent Claim 24 are not “capable of instant and unquestionable demonstration as being well-known.”

Specifically, the Official Action further states that “it would have been obvious to one of ordinary skill in the art... to modify the system of Picco with the terminal response of the well-known prior art in order to inform the server that a particular storage request can or cannot be fulfilled and the condition, for example, it (sic) the terminal’s hard disk drive were

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<sup>1</sup> Picco Abstract.

<sup>2</sup> Id.

full, such that a server would know to try the request again later or to issue a delete command to free up space.”

However, amended independent Claim 24 clearly recites that the terminals “send, to the processing server section, the conditions for the instruction for the change and an acknowledgment or refusal of the change on the *basis of the relationship between the attributes and the profile of the contents clips*.” Thus, the claim specifically recites that the acknowledgment or refusal is based on the relationship between the attributes and the profile of the contents clips, and is not based simply on a typical server-client acknowledgement, as asserted in the Official Action. Claim 24 further recites that the terminals send *the conditions for the instruction for the change*. The Official Action, instead, simply asserts that it would have been obvious to include an acknowledgement or refusal, but fails to address the transmission of any *conditions for the instruction for the change*, whatsoever.

Accordingly, Applicant respectfully submits that that the features of sending from the terminals “*to the processing server section, the conditions for the instruction for the change and an acknowledgment or refusal of the change on the basis of the relationship between the attributes and the profile of the contents clips*,” recited in amended independent Claim 24 are not “capable of instant and unquestionable demonstration as being well-known.”

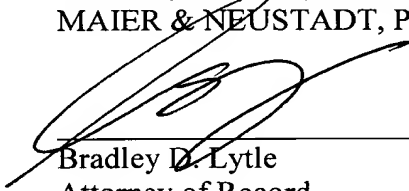
Further, as Hendricks is relied upon only for the feature of “the terminal sections having a function of transmitting ID information,” this reference also fails to teach or suggest the above differentiated features recited in amended independent Claim 24.

Accordingly, Applicant respectfully requests that the rejection of Claim 24 under 35 U.S.C. § 103 be withdrawn. For substantially the same reasons as provided with respect to amended independent Claim 24, it is also submitted that amended independent Claim 44 also patentably define over Picco and/or Hendricks.

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claims 24, 26-33, 44 and 46-53 is definite and patentably distinguishing over the applied references. The present application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of the application is therefore requested.

Respectfully submitted,

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